

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**ARMANDO CARDON CORTEZ,**

Plaintiff,

v.

**CIVIL ACTION NO.: 3:19-CV-77  
(GROH)**

**CANAAN USP, Warden,  
HAZELTON USP, Warden  
and GILMER FCI, Warden,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Now before the Court is the Amended Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his Amended R&R [ECF No. 11] on May 30, 2019. In his Amended R&R, Magistrate Judge Trumble recommends that the Plaintiff’s complaint [ECF No. 1] be dismissed with prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a *de novo* review of the magistrate judge’s findings where objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a plaintiff’s right to appeal this Court’s Order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91,

94 (4th Cir. 1984).

Objections to Magistrate Judge Trumble's Amended R&R were due within fourteen plus three days of service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Amended R&R was mailed to the Plaintiff on May 30, 2019. ECF No. 11. The Plaintiff accepted service on June 3, 2019. ECF No. 13. On June 10, 2019, the Plaintiff filed a document styled "Notice 'Objection.'" ECF No. 14. Therein, the Plaintiff states, "[t]his Honorable Court gave me 21 days to Resubmitted the all demande." Id. at 1. The Court construes Plaintiff's "Notice 'Objection'" as a general objection to Magistrate Judge Trumble's findings.

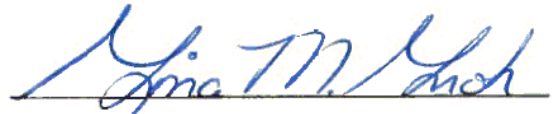
In his R&R, Magistrate Judge Trumble recommends that the Plaintiff's complaint be dismissed for two reasons. First, the Plaintiff has improperly named the wardens of Canaan USP, Hazelton USP and Gilmer FCI as defendants. In a Bivens action, supervisory defendants may not be liable for the actions of their subordinates. Next, the Plaintiff has failed to present any facts or legal authority to support his claim. The Plaintiff's claims are frivolous and do not state a claim on which the Plaintiff could prevail.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Amended Report and Recommendation [ECF No. 11] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. Therefore, the Plaintiff's Complaint [ECF No. 1] is **DISMISSED WITH PREJUDICE** and the Plaintiff's Motion for Leave to Proceed in Forma Pauperis [ECF No. 2] is **TERMINATED AS MOOT**.

This matter is **ORDERED STRICKEN** from the Court's active docket. The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return

receipt requested, at his last known address as reflected on the docket sheet.

**DATED:** June 18, 2019

A handwritten signature in blue ink, appearing to read "Gina M. Groh", is written over a horizontal line.

GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE